

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re FTCA Flint Water Cases

Civil No. 4:17-cv-11218
(Consolidated)

This Filing Relates to:
ALL CASES

Linda V. Parker
United States District Judge

Curtis Ivy, Jr.
United States Magistrate Judge

STATUS UPDATE AND STIPULATED BRIEFING SCHEDULE

The parties have met and conferred regarding Rule 35 medical examinations and the defense medical examination protocol and provide the following status update and stipulated briefing schedule.

On September 28, 2022, District Judge Parker referred the parties' dispute related to the defense medical examinations to Magistrate Judge Curtis Ivy, Jr. ECF No. 196. Judge Ivy thereafter set the matter for a hearing, but the United States subsequently learned that the retained psychologist who was going to conduct the medical examinations needed to withdraw from the case. The parties informed the Court of the situation and the matter was stayed pending retention by the United States of an alternative medical professional and further discussions between the parties about the DME protocol.

At the end of December the United States entered into a retainer agreement with Dr. Jennifer L. Huffman, a licensed psychologist, to perform neuropsychological examinations (“Rule 35 DMEs”) of both adult and child bellwether plaintiffs.

The United States provided an amended proposed DME protocol to Plaintiffs and the parties have met and conferred to discuss the terms and conditions. There remain significant differences on several issues, and the parties agree that the DME protocol issues must be resolved before any Rule 35 medical examinations can be conducted. Accordingly, the parties have agreed on a proposed briefing schedule; Plaintiffs request a hearing but the United States defers to the Court as to whether a hearing is necessary; and the parties jointly request that if a hearing is scheduled, that it be set shortly after briefing is completed. The proposed briefing schedule requires that the United States’ motion/brief be filed by February 3, 2023, Plaintiffs’ opposition be filed by February 17, 2023, and the United States’ reply be filed by February 24, 2023. A proposed order is submitted separately for the Court’s convenience.

Dated: January 25, 2023

Respectfully submitted,

s/ Jason T. Cohen

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